

PUBLIC HEALTH REGULATIONS

Department of Health
State of Hawaii
Chapter 37-A
Water Quality Standards

Under and by virtue of the provisions of Sections 46-13 and 46-16,
Revised Laws of Hawaii 1955, Chapter 342, Hawaii Revised Statutes, and the Federal
Water Pollution Control Act Amendments, 1972 PL 92-500, and all other applicable
laws, Chapter 37-A of the Public Health Regulations, Department of Health, State of
Hawaii, is hereby amended to read as follows:

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Section 1. PURPOSE AND SCOPE

Pursuant to the authority granted by Section 46-16, Revised Laws of Hawaii
1955, Chapter 342, Part III, Section 342-32 Hawaii Revised Statutes, the Director of

Health of the State of Hawaii appointed a Master to divide the waters of the State into areas and to recommend to the Director standards of water quality for such water areas. Except as modified in this Chapter, the standards recommended by the Master are hereby adopted. The standards adopted, hereinafter set forth, shall be the standards of water quality for the purposes of Chapter 37, Public Health Regulations, Department of Health, State of Hawaii, and shall be enforced and administered as provided therein.

Section 2. DEFINITIONS

- A. "Near shore waters" means all coastal waters lying within a defined reef area, all waters of a depth less than ten fathoms, or waters up to a distance of 1,000 feet off-shore if there is no defined reef area and if the depth is greater than ten fathoms.
- B. "Off-shore waters" means all coastal waters beyond the limits defined for "near shore waters."
- C. "Coastal waters" includes "near shore waters," "off-shore waters" and all [those brackish waters, fresh waters and salt] waters that are subject to the ebb and flow of the tide.

Section 3. CLASSIFICATION OF WATER USES

A. Classification of Coastal Water Uses

Coastal waters are classified in accordance with the uses to be protected in each class as follows:

1. Class AA waters

The uses to be protected in this class of waters are oceanographic research, the support and propagation of shellfish and other marine

life, conservation of coral reefs and wilderness areas, compatible
recreation and aesthetic enjoyment.

It is the objective of this class of waters that they remain in
as nearly their natural, pristine state as possible with an absolute
minimum of pollution from any source. To the extent possible, the
wilderness character of such areas shall be protected. No zones of
mixing _____ will be permitted
in these waters.

The classification of any water area as Class AA shall not preclude
other uses of such waters compatible with these objectives and in
conformance with the standards applicable to them.

2. Class A waters

The uses to be protected in this class of waters are recreational[,]
(including fishing, swimming, bathing and other water-contact
sports) [and] , aesthetic enjoyment [.] and the support and propagation of
aquatic life.

It is the objective for this class of waters that their use for recreational purposes and aesthetic enjoyment not be limited in any way. Such waters shall be kept clean of any trash, solid materials or oils and shall not act as receiving waters for any effluent which has not received the best [practicable] degree of treatment or control practicable under existing technology and compatible with the standards established for this class.

3. Class B waters

The uses to be protected in this class of waters are small boat harbors, commercial [.] and industrial shipping, bait fishing, compatible recreation, the support and propagation of aquatic life, and aesthetic enjoyment.

It is the objective for this class of waters that discharges of any pollutant be controlled to the maximum degree possible and that sewage and industrial effluents receive the best practicable treatment or control compatible [for] with the standards established for this class.

See Sect. 3.A.2

The Class B designation shall apply only to a limited area next

to boat docking facilities in bays and harbors. The rest of the water area in such bay or harbor shall be Class A unless given some other specific designation in Section 5.

B. Classification of Fresh Water Uses

Fresh waters are classified in accordance with the uses to be protected as follows:

1. Class 1 Waters

The uses to be protected in this class of waters are drinking water supply [and], food processing [.] the support and propagation of aquatic life, and compatible recreation.

It is the objective of this class of waters that they remain *in* as nearly the natural state as possible with an absolute minimum of pollution from any source. To the extent possible, the wilderness character of such areas shall be protected. Waste discharges into these waters are prohibited.

2. Class 2 Waters

The uses to be protected in this class of waters are bathing, swimming, recreation, growth and propagation of fish and other the support and propagation of aquatic life, compatible recreation and agricultural and industrial water supply.

It is the objective for this class of waters that their use for recreational purposes, propagation of fish and other aquatic life and agricultural and industrial water supply not be limited in any way. Such waters shall be kept clean of trash, solid materials or oils and shall not act as receiving waters for any effluent which has not received the best practicable treatment compatible with the standards established for this class.

Section 4. ZONES OF MIXING

[**] Zones of Mixing for the assimilation of municipal, agricultural and

industrial discharges which have received the best practicable treatment or control are recognized as necessary.

- It is the objective of this limited zone to provide for a current realistic means of control over such discharges and at the same time achieve the highest attainable level of water quality.

Section 5. CLASSIFICATION AND ESTABLISHMENT OF WATER AREAS

The following classification of water uses shall apply to the following areas.

A. Coastal Water Areas and Non-Tidal Brackish and Saline Surface Water Areas

1. Oahu

[**] (a) Class AA waters

Waimanalo Bay from Makapuu Point to the southerly boundary of Kaiona Beach Park and including the waters surrounding Manana and Kaohikaipu Islands.

Kaneohe Bay.

Kahana Bay.

Waialua Bay, from Puaena Point to Kaiaka Point.

The near shore waters along Kaena Point for a distance of

3 1/2 miles towards Mokuleia and 3 1/2 miles towards Makua.

[That portion of West Loch, Pearl Harbor, lying north of a
tangent drawn from Nichols Point to Loch Point.]

Hanauma Bay.

[**] (b) Class A waters

That portion of Waimanalo Bay not designated Class AA.

Kailua Bay, from Wailea Point to Mokuapu Point.

The near shore waters between Mokuapu Point and Pyramid Rock.

The near shore waters between Makalii Point and Laie Point.

Laie Bay.

All coastal waters and non-tidal brackish and saline surface waters not
included in any other class.

(c) Class B waters

Kaneohe Bay small boat harbor adjacent to Kaneohe Yacht Club.

Kaneohe Marine Corps Air Station small boat harbor and pier area.

Kewalo Basin.

Ala Wai Boat Harbor.

Pokai Bay small boat harbor.

Haleiwa small boat harbor.

Keehi Lagoon marina areas.

Heeia-Kea small boat harbor.

Campbell Estate Industrial Harbor.

Pearl Harbor - Middle Loch and East Loch and that portion
of West Loch not classed as AA waters.

Honolulu Harbor.

Hickam Harbor.

Kuapa Pond marina areas.

2. Kauai

(a) Class AA waters

The near shore waters between [Hikinoe] Hikimoe Valley
and Puu Poa Point, including Wainiha Bay and Hanalei Bay.

The near shore waters between ^{the western boundary of Hoai Bay} ~~Ka Lae Kiki Point~~ to Makahuena
Point.

(b) Class A waters

[All coastal waters of the island of Niihau.]

All coastal waters and non-tidal brackish and saline surface waters
[of the island of Kauai] not included in any other class.

(c) Class B waters

Wailua River small boat harbor.

Kukuiula [Bay.] small boat harbor.

Hanapepe Bay small boat harbor.

Kikiaola Harbor.

Nawiliwili [Bay.] Harbor.

Port Allen [, Hanapepe.] Harbor.

3. Niihau

(a) Class AA waters

The near shore waters surrounding the island of Niihau.

(b) Class A waters

All coastal waters and non-tidal brackish and saline surface

waters not included in any other class.

[3] 4. Molokai

(a) Class AA waters

The near shore waters between the westerly boundary of Haleolono

Harbor and Laau Point.

The near shore waters between Laau Point and Ilio Point and from

Ilio Point to Lamaola Head.

[*] The near shore waters from Cape Halawa to the easterly boundary of Kaunakakai Harbor, [except the waters of and from Kalaeloa Harbor, westerly, to and including the near shore waters adjoining the Ahupuaa of Puaahala and Kalokoiki Fish Pond.]

(b) Class A waters

Halawa Bay.

The near shore waters from the westerly boundary of Kaunakakai Harbor to the easterly boundary of Haleolono Harbor.

All
The coastal waters and non-tidal brackish and saline surface waters not included in any other class.

(c) Class B waters

Kaunakakai Harbor.

Haleolono Harbor.

Kalaeloa Harbor.

[*The waters of and from Kalaeloa Harbor, westerly, to and including the near shore waters adjoining the Ahupuaa of Puaahala and Kalokoiki Fish Pond.]

[4.] 5. Lanai

(a) Class AA waters

[The near shore waters from the westerly boundary of
Hulopoe Bay to Kaiolohia Bay.]

All near shore waters not included in any other class.

[The near shore waters from Kamaika Point to the easterly
boundary of Manele Bay.]

(b) Class A waters

All /coastal/ off-shore waters and non-tidal brackish and
saline surface waters not included in any other class.

Manele Bay.

(c) Class B waters

Manele [Bay.] Harbor.

Kaumalapau Harbor.

[5.] 6. Maui

(a) Class AA waters

The near shore waters between Nakalele Point and Waihee Point.

The near shore waters between Huelo Point and [Naualele Point.]

Puu Olai.

(b) Class A waters

All coastal waters and non-tidal brackish and saline surface waters

not included in any other class.

(c) Class B waters

Maalaea small boat harbor.

Lahaina small boat harbor.

Kahului [Bay.] Harbor.

Hana Harbor.

[**6] 7. Hawaii

(a) Class AA waters

The near shore waters from [Ka Lae]-Leleiwi Point to

Waiulaula Point.

(b) Class A waters

The near shore waters from the northern boundary of Kawaihae

Harbor to the southern boundary of Mahukona Harbor.

The near shore waters from Kauilii Point to the westerly
boundary of Hilo Harbor.

[The near shore waters from the easterly boundary of Hilo
Harbor to Ka Lae, excepting Honaupo Bay.]

All coastal waters and non-tidal brackish and saline surface waters
not included in any other class.

(c) Class B waters

Honaupo Bay.

Kealakekua Bay.

Keauhou Bay.

Kailua Bay.

Honokahau Bay.

Mahukona Harbor.

Hilo Harbor.

Kawaihae Harbor.

8. All other islands of the State

(a) Class AA waters

shore
All near / waters of all islands not classified in Section 4.A.1.
through 7.

(b) Class 1 waters

All "off-shore" waters and non-tidal brackish and saline surface waters not included in any other class.

B. Fresh Water Areas

1. Class 1 waters

All sources of fresh surface waters on all islands whether publicly or privately owned, used for domestic, culinary or food processing purposes.

2. Class 2 waters

All natural fresh water streams, canals, ponds, lakes, rivers and all reservoirs resulting from the damming of natural streams on all islands whether publicly or privately owned not included in Class 1.

Section 6. WATER QUALITY STANDARDS

A. Basic Standards Applicable to all Water Areas

All waters shall be free of substances attributable to discharges or wastes as follows:

1. Materials that will settle to form objectionable sludge and bottom deposits

2. [Floating debris, oil, scum and other matter;]

Floating debris, oil, grease, scum and other floating materials;

3. Substances[producing objectionable color, odor, taste or turbidity;]

in

amounts sufficient to produce taste or odor in the water or detectable

off-flavor in the flesh of fish, or in amounts sufficient to produce

objectionable color, turbidity, or other conditions in the receiving waters;

4. [Materials, including radionuclides, in concentrations or combinations
which are toxic or which produce undesirable physiological responses in
human, fish and other animal life and plants;]

High temperature, biocides, pathogenic organisms,

toxic, corrosive, or other deleterious substances

at

levels or combinations sufficient to be toxic or harmful to human, animal

plant or aquatic life or in amounts sufficient to interfere with any

beneficial use of the water. As a minimum, a water shall be evaluated by use of

a 96-hour bioassay as described in the most recent edition of

Standard Methods for the Examination of Water and Wastewater. Survival

of test organisms shall not be less than that in controls which utilize

appropriate experimental water.

5. Substances and conditions or combinations thereof in concentrations

which produce undesirable aquatic life.;

All waters shall also be free from soil particles resulting from erosion on land involved in earthwork, such as the construction of public works, highway, subdivisions, recreational, commercial, or industrial developments, or the cultivation and management of agricultural lands [.]

unless [This standard shall be deemed met if] it can be shown that the land which the erosion occurred or is occurring is being managed in accordance with soil conservation practices acceptable to the Director, and that a comprehensive conservation program is being actively pursued, or that the discharge has received the best practicable treatment or control.

B. Specific Standards Applicable to Particular Water Areas

1. Microbiological Requirements

The median coliform bacteria shall not exceed	Applicable to:
Per 100	Class AA
70 ml [.] <u>during any 30-day period</u>	

nor shall samples exceed 230 per
100 ml at any time.

Applicable to:

The median coliform bacteria shall not exceed 1000 per 100 ml, nor shall more than 10% of the samples exceed 2,400 per 100 ml per 100 ml during any 30-day period.

Classes A,
1 and 2

Fecal coliform content shall not exceed an arithmetic average of 200 per 100 ml during any 30-day period nor shall more than 10% of the samples exceed 400 per 100 ml in the same time period.

For such portion of Class 1 waters from which water is withdrawn for distribution for drinking water or food processing following simple chlorination,

disinfection

the fecal coliform content shall not exceed an
arithmetic average of 20 / / per 100 ml during any
calendar month .

Fecal coliform content shall not exceed an Class B
arithmetic average of 400 / / per 100 ml during any
30-day period nor shall more than 10% of the
samples exceed 1000 / / per 100 ml in the same time period.

To determine compliance with the above microbiological
requirements where a "30-day period" is specified, a minimum of
ten samples shall be collected.

2. pH -- Units

Applicable to:

Not more than $\frac{1}{2}$ unit difference from natural Class AA
conditions but not lower than 8.0 nor higher than
8.5 from other than natural causes. (Not lower

than 7.0 for fresh tidal waters.)

Not more than $\frac{1}{2}$ unit difference from natural conditions but not lower than 7.0 nor higher than 8.5 from other than natural causes.

Classes A,B,1

Not less than 6.5 nor higher than 8.5

Class 2

3. Nutrient Materials

Applicable to:

Total phosphorus, not greater than 0.020 mg/l.

Class AA

Total phosphorus, not greater than 0.025 mg/l.

Class A

Total phosphorus, not greater than 0.030 mg/l.

Class B

Total phosphorus, not greater than 0.20 mg/l.

Classes 1,2

Total nitrogen, not greater than 0.10 mg/l.

Class AA

Total nitrogen, not greater than 0.15 mg/l.

Class A

Total nitrogen, not greater than 0.20 mg/l.

Class B

4. Dissolved Oxygen (except from natural causes)

Applicable to:

Not less than 6.0 mg/l.

Classes AA,1

Not less than 5.0 mg/l.

Classes A,2

Not less than 4.5 mg/l.

Class B

5. Total Dissolved Solids, Salinity and Currents

Applicable to:

No changes in channels, in basin geometry of

Class AA

the area, or in freshwater influx shall be made

which would cause permanent changes in isohaline

patterns of more than +10% of naturally occurring

variation or which would otherwise affect bio-

logical and sedimentological situation. Total

dissolved solids shall not be below 28,000 mg/l

from other than natural causes.

[**]6. Temperature

Applicable to:

Temperature of receiving waters shall not

Classes AA, A,

change more than 1.5°F from natural conditions.

B, 1 and 2

7. Turbidity

Applicable to:

Secchi disc or secchi disc equivalent as

Classes AA,

"extinction coefficient" determinations shall not

A, B, 1 and 2

be altered from natural conditions more than 5%

for Class AA or Class 1 waters, 10% for Class A

or Class 2 waters, or 20% for Class B waters.

8. Radionuclides

vs. Radioactive materials

Applicable to:

The concentration of radioactivity in water

/Classes AA, A, /
/B, 1 and 2 /

shall not exceed 1/30th of the MPC_w values given

for continuous occupational exposure in National

Bureau of Standards Handbook No. 69. No radio-

nuclide or mixture of radionuclides shall be

present at concentrations greater than those

specified by the U.S. Public Health Services,

for drinking water.]

concentration
Radioactive materials ^(shall not exceed) in excess of minimum concen-

Classes AA, A
B, 1 and 2

trations which are physically and economically feasible

to achieve. In no case shall such material exceed the limits

established in the 1962 Public Health Service Drinking Water

Standards (or later amendments) or 1/30th of the MPC_w values

given for continuous occupational exposure in the National Bureau

of Standards Handbook No. 69. The concentrations in water shall

not result in accumulation of radioactivity in plants or animals.

that result in a hazard to humans or harm to aquatic life.

The concentration of radioactive materials present in

Classes AA, A,
B and 2

fresh, estuarine, and marine waters shall be less than those that

would require restrictions on the use of organisms harvested from

the area in order to meet the Radiation Protection Guides recommended

by the Federal Radiation Council.

Analyses to determine water quality shall be based on the
U.S. Environmental Protection Agency manual entitled "Method for
Chemical Analysis of Water and Wastes," as revised and "Biological
Methods for Measuring the Quality of Water and Wastes" as revised,
or as otherwise previously specified or approved by the Director.

These water quality criteria are based upon the best currently available data. It is possible that studies planned to be made in connection with the implementation program may prove them to be either inadequate or unattainable. For this reason, they will be subject to periodic review and, where necessary, to change. Any change will be made only after public hearing, held in compliance with the Hawaii Administrative Procedure Act and the Rules of Practice and Procedure of the Department of Health.

Section 7. ESTABLISHMENT, RENEWAL AND TERMINATION OF ZONES OF MIXING

- (a) Every application for a zone of mixing shall be made on forms furnished by the director and shall be accompanied by a complete and detailed description of present conditions, how present conditions do not conform to standards, and such other information as the director may prescribe by rules or regulations.

mixing

(b) Each application for a zone of / shall be reviewed in light of the

descriptions, statements, plans, histories, and other supporting

information as may be submitted upon the request of the director,

and the effect or probable effect upon the water quality standards

established pursuant to this chapter.

(c) Whenever an application is approved, the director shall establish
the zone of mixing taking into account protected uses of the body of water,
existing natural conditions of the receiving water, character of the effluent,
the adequacy of the design of the outfall and diffuser system to achieve
maximum dispersion and assimilation of the treated or controlled waste with a
minimum of undesirable or noticeable effect on the receiving water.

mixing

(e) Approval of a zone of / shall be made only after a public hearing is

held by the director in the county where the source is situated in
accordance with the Hawaii Administrative Procedure Act and the Rules
of Practice and Procedure of the Department of Health.

mixing

(d) No zone of / shall be granted by the director unless the application

and the supporting information clearly show that:

1) The continuation of the function or operation involved in the

mixing

discharge by the granting of the zone of / is in the public

interest;

2) The discharge occurring or proposed to occur does not sub-

stantially endanger human health or safety; and

3) Compliance with the existing water quality standards from

of mixing

which a zone / is sought would produce serious hardships without equal or greater benefits to the public;

- 4) The discharge occurring or proposed to occur does not violate the basic standards applicable to all waters, will not unreasonably interfere with any actual or probable use of the water areas for which it is classified, and has received the best practicable treatment or control or, in the case of proposed discharge, will receive the best available demonstrated pollution control technology, processes and operating methods.

(f) Any zone of mixing or renewal thereof shall be granted within the re-

quirements of this section and for time periods and under conditions

consistent with the reasons therefor and within the following

limitation:

mixing

- 1) If the zone of / is granted on the ground that there is no

practicable means known or available for the adequate prevention,

control or abatement of the discharge involved, it shall be

only until the necessary means for prevention, control, or

abatement become practicable and subject to the taking of any

substitute or alternate measures that the director may prescribe.

a

No renewal of / zone of mixing granted under this subsection shall be

allowed without a thorough review of known and available means
of preventing, controlling, or abating the discharge involved.

2) The director may issue a zone of ^{mixing} / for a period not exceeding
five years.

3) Every zone of ^{mixing} / granted under this section shall include conditions,
but not limited to,
requiring the grantee to perform effluent and receiving water sampling and
report the results of such sampling to the director, and ^a
program of research to develop practicable alternatives to the methods of
treatment or control in use by the grantee may be required if such research
is deemed prudent by the Director.

(g) Any zone of ^{mixing} / granted pursuant to this section may be renewed from
time to time on terms and conditions and for periods not exceeding
five years which would be appropriate on initial granting of a

zone of mixing; provided that the applicant for renewal has met all of the

conditions specified in the immediately preceding zone of mixing; and

provided, further, that the renewal, and the zone of mixing established in

pursuance thereof, shall provide for discharge not greater/then that
in quantity of mass emissions

attained pursuant to the terms of the immediately preceding zone of mixing

at its expiration. No renewal shall be granted except on application

therefor. Any such application shall be made at least sixty days

prior to the expiration of the zone of mixing.

(h) No zone of ^{mixing} / shall be granted unless the director finds that human

health and safety will not be endangered thereby.

(i) No zone of ^{mixing} / granted pursuant to this part shall be construed to

prevent or limit the application of any emergency provisions and

procedures provided by law.

(j) The establishment of any zone of mixing shall be

subject to the concurrence of the federal Environmental Protection

Agency.

(k) The director, on his own motion, or upon the application of any

person, shall terminate a zone of mixing, if

after a hearing, he shall determine that the water area does not meet

the basic standards applicable to all water areas or that the zone of mixing

granted will unreasonably interfere with any actual or probable use of

the water area or that the discharge does not receive the best

practicable treatment or control or that the new discharge did not receive the best available demonstrated pollution control technology, processes and operating methods. Such termination shall be made only

after a hearing held by the director on the island where the area is

situated in accordance with the Hawaii Administrative Procedure Act

and the Rules of Practice and Procedure of the Department of Health.

Upon such termination, the standards of water quality applicable thereto

shall be those established for the water as otherwise classified.

(1) Upon expiration of the period stated in the designation, the zone of

mixing shall automatically terminate and no rights shall become vested

in the designee.

Deleted Sections 7 and 8 ^{from the existing Chapter 37A}
omitted from this copy.

treatment or control. Such termination shall be made only after a hearing held by the Director on the island where the area is situated in accordance with the Hawaii Administrative Procedure Act and the Rules of Practice and Procedure of the Department of Health. Upon such termination, the standards of water quality applicable thereto shall be those established for the water as otherwise classified.]

Section [10.] 8. SEVERABILITY

If any provision of this Chapter, or its application to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Chapter, shall not be affected thereby.

Section 9. EFFECTIVE DATE

This Chapter shall be effective 60 days after approval by the Governor.